

TAX AND SALVAGE SALES

L

MICHIGAN
PAMPHLETS
NO. 4

BUREAU OF GOVERNMENT
UNIVERSITY OF MICHIGAN-1939

TAX AND SALVAGE SALES

THE salvage sales which will be held in the years 1940 to 1944 will be events of significance to Michigan taxpayers because they will affect materially the amount of property on the tax rolls. If the state lands that are offered for sale are not reacquired by the original owners or purchased by other individuals a considerable amount of property will, as state lands, continue to be exempt from taxation. The salvage sale is a device for dealing with the tremendous volume of tax delinquency that accumulated during the depression. Both the tax sale and the salvage sale are closely related to tax delinquency on real estate, but the two types of sale should not be confused. This pamphlet contains an explanation of the significance of tax delinquency, and of the nature and operation of the tax and salvage sales.

TAX DELINQUENCY

THE PROBLEM

It has been estimated that unpaid real estate taxes in Michigan in 1933 amounted to approximately 40 per cent of the total levy for that year. During the same year the nationwide average of delinquency was only 20 per cent of the current levy. In Michigan counties the ratio of tax delinquency to the total tax levy varied from 10 per cent in Marquette County to 92.5 per cent in Macomb County. Thus, it is evident that delinquency has been a major tax problem for state and local governments.

* By Robert S. Ford, Director, and William B. Wood, Research Assistant, Bureau of Government of the University of Michigan. The material in this pamphlet is based on a previous publication of the Bureau of Government entitled *Realty Tax Delinquency in Michigan* (October, 1937) by Robert S. Ford. The legislative history of the tax and salvage sales has been revised to conform with the following Michigan Public Acts of 1939: 37, 50, 51, 52, 244, 282, and 329. Publication of this pamphlet is made possible by a grant of funds from the Charles S. Mott Foundation.

TAX AND SALVAGE SALES

The nature of the problem will be better understood if delinquency is divided into two classes—long-term and short-term. Short-term delinquency exists when a tax remains unpaid at the end of the current collection period and becomes subject to a penalty. Long-term delinquency exists when taxes have not been paid for several years and the taxpayer is in real danger of losing his property. This distinction becomes especially significant when considered in connection with the causes of delinquency.

CAUSES OF TAX DELINQUENCY

These causes may be classified into three categories—administrative, legislative, and economic.

Administrative

One of the most important administrative causes of delinquency is lax collection methods. In most jurisdictions in Michigan, the tax collector is an elective officer who must retain the good will of the voters in order to keep his job. As a consequence, he is frequently unwilling to antagonize the taxpayers by being too insistent about payment of taxes. In place of making a genuine effort to collect taxes, he usually acts merely as a receiver. The failure to send out tax bills may be cited as an illustration. A law of 1931 provided that bills should be sent to taxpayers, but it was not made mandatory and as a result taxpayers in many localities must call at the office of the collector to find out the amount of their taxes. Laxity in collection methods gives rise to short-term delinquency which may under certain circumstances continue into long-term delinquency.

Legislative

The chief legislative cause of delinquency is actual or anticipated leniency toward delinquent taxpayers. If the legislature has canceled, or has given taxpayers any reason to believe that it will cancel, interest and penalties on delinquent taxes, some taxpayers will naturally withhold payment until the last possible moment. Such delinquency, although originally short-

TAX AND SALVAGE SALES

term in character, may be converted into the long-term type by continued leniency.

In Michigan the vast amount of delinquency during the depression resulted in strong demands on the legislature for the granting of relief to delinquent taxpayers. As a result legislation was enacted which provided for the cancellation of penalties and interest on taxes delinquent for 1934 and prior years if such taxes were paid before a certain date, for the postponement of the tax sale, and for an installment payment plan for taxes unpaid for 1935 and prior years. For several years the hope existed that the legislature would actually cancel delinquent taxes, and the possibility that such action would be taken probably had an important effect in stimulating delinquency. The demand for tax cancellation subsided, however, following the invalidation by the Supreme Court of Minnesota of a Minnesota statute providing for partial cancellation of delinquent taxes. The court held that the law discriminated against taxpayers who paid their taxes promptly, and that such discrimination was contrary to the constitutional rule requiring uniformity in taxation. It seemed highly probable that such a law would be invalidated in Michigan for similar reasons.

Outright cancellation of taxes is unconstitutional. Cancellation of penalties and interest, however, has been sanctioned by several courts. In these cases the reasoning was that interest is a penalty and not payment for the use of the money. Since a penalty is not part of the tax, the uniformity requirement does not prevent the cancellation thereof.

Economic

The most important cause of tax delinquency is economic in character. This is well illustrated by the increase in delinquency accompanying the decline of income during a depression. The failure to pay taxes is not solely a depression phenomenon, however, as there is a certain amount of chronic delinquency even during prosperous years. Short-term delinquency arising in a period of depression is usually paid when income rises again, but if the depression is very long the accumulation

TAX AND SALVAGE SALES

of taxes, interest, and penalties may make redemption of tax delinquent property virtually impossible.

Tax delinquency of a long-term character is closely related to the problem of the proper utilization of land. The period 1920 to 1930 witnessed an overexpansion in subdividing activities in suburban areas. Lots were purchased at fabulous prices. In many instances public improvements added heavy special assessments to the general tax levy. With the collapse of the real estate boom and the evaporation of speculative values there was often no incentive to hold the property and to pay taxes.

The reduction of property values during a period of depression occurs not only in urban and suburban areas, but in rural areas as well. The owners of vacant lots, cut-over lands, and other nonincome-producing property are all affected in the same manner. The problem has been particularly acute in the northern part of the state and in the metropolitan area around Detroit.

The various forms of relief granted by the legislature, which were intended to stimulate payment of delinquent taxes, seemed to stimulate delinquency because of the hope that the relief might be extended to include cancellation of taxes. As a result of the postponement of the tax sale between 1932 and 1938 a taxpayer could have stopped payment of taxes in 1930 without danger of losing his property through the tax sale. Although the immediate danger of loss of property was thus removed during this period, the accumulation of taxes, interest, and penalties each year made it progressively more difficult for the taxpayer to pay. Where no property taxes were paid between 1930 and 1938, the accumulated charges on many parcels equaled or exceeded their value.

For example, an unimproved subdivision lot in Washtenaw County with an assessed valuation of \$175 and on which no taxes had been paid since 1930, did not become subject to tax sale until 1938; at that time the accumulated taxes, interest, and penalties, excluding 1936 and 1937 taxes, amounted to \$132.36, or 75.6 per cent of the assessed valuation. Included in the \$132.36 were the following items: five years taxes, \$90.03;

TAX AND SALVAGE SALES

interest at three-fourths of 1 per cent per month on the taxes from the date of delinquency to the date of sale, \$38.72; and collection fees, \$3.61. This parcel was bid off by the state at the 1938 sale, and if it is not redeemed within eighteen months after that sale, it will revert to the state in November, 1939. It will be subject to the first salvage sale in February, 1940.

In the example cited there were no special assessments on the property. Where a lot is subject to special assessments, in addition to the regular taxes, the accumulated charges against the property may greatly exceed its assessed valuation. In Wayne County for example, the present assessed valuation of one lot is \$90 and the accumulated taxes, special assessments, and other charges amount to \$7,750. A few other examples are shown in Table I, which is based on information obtained from the treasurer of Wayne County. Although these examples are extreme, they indicate the severity of the problem.

TABLE I
ASSESSED VALUATION AND ACCUMULATED CHARGES AGAINST CERTAIN
PARCELS IN WAYNE COUNTY, AS OF JULY 31, 1939

Parcel Number	Assessed Valuation	Period of Tax Delinquency	Accumulated Charges
1	\$ 90	1927 to 1938	\$7,750
2	170	1929 to 1938	2,660
3	170	1929 to 1938	2,667
4	290	1927 to 1938	1,777
5	300	1928 to 1938	1,499
6	380	1927 to 1938	4,627
7	410	1927 to 1938	5,342
8	460	1928 to 1938	2,688
9	480	1927 to 1938	2,075
10	500	1927 to 1938	2,909

DELINQUENT TAX PROCEDURE

In Michigan the property tax for county, township, and school purposes becomes due and payable on December 1. Taxes paid between this date and January 10 are subject to a 1 per

TAX AND SALVAGE SALES

cent collection fee; those paid between January 10 and March 1 are subject to a 4 per cent collection fee. On March 1 all unpaid taxes become delinquent.

Delinquent taxes on personal property are collected by the township or city treasurers. If taxes on personalty are not paid between January 10 and March 1 the city or township treasurer may seize the property against which the tax was levied and sell it at public auction to satisfy the government's claim. The proceeds of any such sale in excess of the taxes, interest, and penalties due the government are to be returned to the taxpayer. Although this means of collection is provided in the law, it is rarely used.

Delinquent taxes on real property are collected by the county treasurers. Such taxes, together with the 4 per cent collection fee and interest at the rate of one-half of 1 per cent a month, or 6 per cent a year, may be paid to the county treasurer at any time within twenty-six months from the date of delinquency. If the delinquent taxes are not paid within this time, they are offered at tax sale on the first Tuesday in May, twenty-six months after the March 1 on which the taxes became delinquent.

It should be mentioned that the legislature enacted a measure in 1937 reducing the period of delinquency preceding tax sale from twenty-six months to fourteen months. Such a provision was desirable because it tended to strengthen the tax collection procedure, but unfortunately the law never came into operation. It was repealed in 1939.

TAX SALE

There is much misunderstanding about the nature of the tax sale. It is not a foreclosure sale. It is not the land itself which is sold, but merely the taxes which are delinquent upon the land. The purchaser at the sale does not receive title to the land, but rather receives a tax certificate which entitles him to a tax deed conveying title if the taxes are not redeemed by the owner within a certain length of time after the sale.

TAX AND SALVAGE SALES

SALE PROCEDURE

The tax sale is held annually on the first Tuesday in May. The taxes for any particular year are sold twenty-six months after the March 1 upon which they become delinquent. Thus, taxes levied in 1937 became due on December 1, 1937, delinquent on March 1, 1938, and if still unpaid will be subject to tax sale on the first Tuesday in May, 1940. Ordinarily only one year's taxes are sold at each tax sale, but at the sale which was held in 1938 all taxes delinquent for 1935 and prior years were sold because no sales were held from 1933 through 1937. The sale is conducted by the county treasurer in the county in which the delinquent lands are located. All taxes that are not sold to a private bidder at the tax sale are bid off in the name of the state.

TAXES SOLD TO A PRIVATE BIDDER

Sales Price and Bidding

With regard to sales price and bidding the tax sale is the opposite of an auction sale. At an auction sale the land is sold to the highest bidder. Under the tax sale, the price is fixed at the amount of taxes, interest, and penalties accrued against the land, and the bidding centers around the least undivided interest in the land that will be accepted by the purchaser.

The transaction may be illustrated as follows. On a forty acre parcel that is offered at tax sale, the taxes, interest, and penalties that have accumulated may amount to \$100. Assuming that there is some bidding, the first bid would probably be for the entire interest in the parcel—that is, the bidder would pay the \$100 for a lien on the entire forty acres. Another buyer might offer to pay the \$100 for a certificate covering only three-fourths of the parcel, and another might be willing to accept a one-half or one-third interest and so on. The tax lien is finally sold to the person who will accept the smallest undivided interest.

The interest in the land accepted by the purchaser is undivided in the sense that the property is not partitioned between

TAX AND SALVAGE SALES

cent collection fee; those paid between January 10 and March 1 are subject to a 4 per cent collection fee. On March 1 all unpaid taxes become delinquent.

Delinquent taxes on personal property are collected by the township or city treasurers. If taxes on personalty are not paid between January 10 and March 1 the city or township treasurer may seize the property against which the tax was levied and sell it at public auction to satisfy the government's claim. The proceeds of any such sale in excess of the taxes, interest, and penalties due the government are to be returned to the taxpayer. Although this means of collection is provided in the law, it is rarely used.

Delinquent taxes on real property are collected by the county treasurers. Such taxes, together with the 4 per cent collection fee and interest at the rate of one-half of 1 per cent a month, or 6 per cent a year, may be paid to the county treasurer at any time within twenty-six months from the date of delinquency. If the delinquent taxes are not paid within this time, they are offered at tax sale on the first Tuesday in May, twenty-six months after the March 1 on which the taxes became delinquent.

It should be mentioned that the legislature enacted a measure in 1937 reducing the period of delinquency preceding tax sale from twenty-six months to fourteen months. Such a provision was desirable because it tended to strengthen the tax collection procedure, but unfortunately the law never came into operation. It was repealed in 1939.

TAX SALE

There is much misunderstanding about the nature of the tax sale. It is not a foreclosure sale. It is not the land itself which is sold, but merely the taxes which are delinquent upon the land. The purchaser at the sale does not receive title to the land, but rather receives a tax certificate which entitles him to a tax deed conveying title if the taxes are not redeemed by the owner within a certain length of time after the sale.

TAX AND SALVAGE SALES

SALE PROCEDURE

The tax sale is held annually on the first Tuesday in May. The taxes for any particular year are sold twenty-six months after the March 1 upon which they become delinquent. Thus, taxes levied in 1937 became due on December 1, 1937, delinquent on March 1, 1938, and if still unpaid will be subject to tax sale on the first Tuesday in May, 1940. Ordinarily only one year's taxes are sold at each tax sale, but at the sale which was held in 1938 all taxes delinquent for 1935 and prior years were sold because no sales were held from 1933 through 1937. The sale is conducted by the county treasurer in the county in which the delinquent lands are located. All taxes that are not sold to a private bidder at the tax sale are bid off in the name of the state.

TAXES SOLD TO A PRIVATE BIDDER

Sales Price and Bidding

With regard to sales price and bidding the tax sale is the opposite of an auction sale. At an auction sale the land is sold to the highest bidder. Under the tax sale, the price is fixed at the amount of taxes, interest, and penalties accrued against the land, and the bidding centers around the least undivided interest in the land that will be accepted by the purchaser.

The transaction may be illustrated as follows. On a forty acre parcel that is offered at tax sale, the taxes, interest, and penalties that have accumulated may amount to \$100. Assuming that there is some bidding, the first bid would probably be for the entire interest in the parcel—that is, the bidder would pay the \$100 for a lien on the entire forty acres. Another buyer might offer to pay the \$100 for a certificate covering only three-fourths of the parcel, and another might be willing to accept a one-half or one-third interest and so on. The tax lien is finally sold to the person who will accept the smallest undivided interest.

The interest in the land accepted by the purchaser is undivided in the sense that the property is not partitioned between

TAX AND SALVAGE SALES

the owner and the purchaser of the tax lien. Thus, in the example above, if the purchaser offered to pay the \$100 for an undivided half interest in the property, he would own a half interest in forty acres, rather than a whole interest in any designated twenty acres of the forty acre tract. If, after the issuance of a tax deed, the owner of the property and the owner of the tax deed are unable to agree on the division of the property, the question must be carried into probate court, and the court will issue an order of partition dividing the property between the two individuals.

The successful bidder at the tax sale must pay, in cash, the amount of the bid within twenty-four hours after the sale. In the event that he fails to do so the bid is canceled, and he forfeits to the state five times the amount of the bid plus the costs of suit for collection of this amount.

Who May Bid at the Tax Sale

Generally speaking, the owner of property is excluded from purchasing the tax lien at the tax sale. This rule works no hardship on the owner because he may pay the delinquent taxes at any time up to the day of the tax sale, and he may redeem the property from the tax title purchaser or from the state after the tax sale.

To be more specific, any person who was obligated to pay the taxes that are subject to the sale may not bid. This rule was established in an early case in which the Michigan Supreme Court held that one cannot acquire title to land by purchase at a sale for taxes, any part of which he was obligated to pay. The reason for this judicial interpretation of the law becomes clear when it is realized that the title which is ultimately conveyed to the purchaser at the tax sale, if the owner does not redeem, is a title free and clear of all existing liens and encumbrances. If it were not for this rule it would be possible for the borrower under a mortgage to cancel the mortgage lien by allowing taxes on the property to become delinquent and by purchasing the tax certificate at the tax sale.

TAX AND SALVAGE SALES

Redemption from Private Bid

In accordance with the procedure in Michigan for many years, the owner will have the privilege after the 1940 tax sale of reacquiring his property at any time within eighteen months. This period includes a twelve-month redemption period, and a six-month reconveyance period. During the redemption period the owner may redeem his property upon payment of the amount of the bid together with interest thereon at 1 per cent per month from the date of sale to the date of redemption. Upon redemption the owner is entitled to a release and quit-claim deed from the tax title purchaser.

If the property is not redeemed during the redemption period the tax-title buyer receives a tax deed to the property. He may then request the sheriff of the county in which the land is located to serve to the owner a notice of conveyance of that interest in the land which was sold at the tax sale. After proof of such service of notice has been filed with the county clerk, the owner has an additional six months—the reconveyance period—in which the property may be reconveyed to him upon payment of the amount paid by the purchaser for the tax certificate, plus 50 per cent of that amount, plus the costs of service of notice, plus \$5.00 for each description. It will be observed that reacquisition by the owner during the six-month reconveyance period does not require the payment of interest on the bid at 1 per cent per month. In order to stimulate owner redemption of delinquent lands the legislature provided for the reduction in the penalty from 50 per cent to 10 per cent for the 1938, 1939, and 1940 tax sales. If the above charges are paid by the owner of the land within the six-month period following service of notice he receives a release and quit-claim deed from the tax-title purchaser.

It should be noted at this point that the redemption procedure in connection with the 1938 and 1939 tax sales is somewhat different from that for the 1940 sale, as explained in the preceding paragraph. The owner may reacquire his property from the 1938 and 1939 tax sales at any time within twenty-

TAX AND SALVAGE SALES

four months after the sale—an eighteen-month redemption period and a six-month reconveyance period.

The owner of any interest in the land is entitled to redeem at any time during the redemption and reconveyance periods. Thus, where a person mortgages his property, either he or the lender may redeem it after the tax sale. Such a provision is necessary so that the mortgagee, that is the lender, can protect his interest in the property. If the property is redeemed by either the mortgagor or the mortgagee, there is no change in the borrower-lender relationship, but if the tax-title purchaser receives title to the property the former interests of both mortgagor and mortgagee are canceled.

Nonredemption

Until the periods of redemption and reconveyance expire the original owner is still the owner of the property. If the owner does not redeem, the tax-title purchaser receives a deed which conveys to him a title free and clear of all existing liens and encumbrances, except for taxes levied on such lands subsequent to the taxes which he purchased at tax sale. For example, taxes delinquent for 1937 will be sold at the 1940 tax sale. A person receiving a tax deed in November, 1941, as a result of the 1940 sale, would receive a title free and clear of all previous liens, except for taxes levied in 1938, 1939, and 1940. Thus, if the buyer bought the 1937 taxes at the 1940 tax sale, he would also have to buy the 1938 taxes at the 1941 sale in order to protect his interest in the property. If the owner does not redeem, the purchaser would receive a tax deed for the 1940 sale in November, 1941, and upon receipt of the deed he would have to pay 1939 and 1940 taxes on the property in order to secure a clear title to it.

LANDS BID OFF IN THE NAME OF THE STATE

It frequently happens at the tax sale that there is no private bidder for the taxes on a particular parcel. If there is no bidder when taxes are offered for the first time they must be offered again during the same sale. If the taxes are not sold at the

TAX AND SALVAGE SALES

second offering the county treasurer is directed to "bid the lands off in the name of the state." The estimated number of parcels, by counties, that were sold at the 1938 tax sale is shown in the map of Michigan which appears at page 16. It will be observed that there were approximately 10,000 private bids and 735,000 state bids. The lands which were bid off to the state will revert to the state in November, 1939, unless they are redeemed by the owner before that date.

When lands are bid off to the state the interest taken is the entire interest in the property. No payment is made by the state, and the taxes remain a lien against the property. Incidentally, the property that is bid off to the state remains on the local tax rolls, and taxes are levied on it, even though the local units cannot expect the payment of such taxes unless the property is redeemed. If the property is redeemed each taxing unit is paid its share of the taxes and penalties.

If the property is not redeemed it is removed from the local tax rolls when it becomes state property and it is exempt from further local taxation. In order that the localities may not be burdened too heavily by the removal of property from local tax rolls, a compensatory plan has been adopted to apply when the lands revert to the state. With certain exceptions, an annual payment of \$.10 per acre is made by the state auditor general to the treasurer of each county in which there are state lands. The county treasurer prorates such payments among the different townships and schools districts. The state also makes a single payment of \$.25 per acre on all lands that are incorporated into state forests, parks, and game refuges.

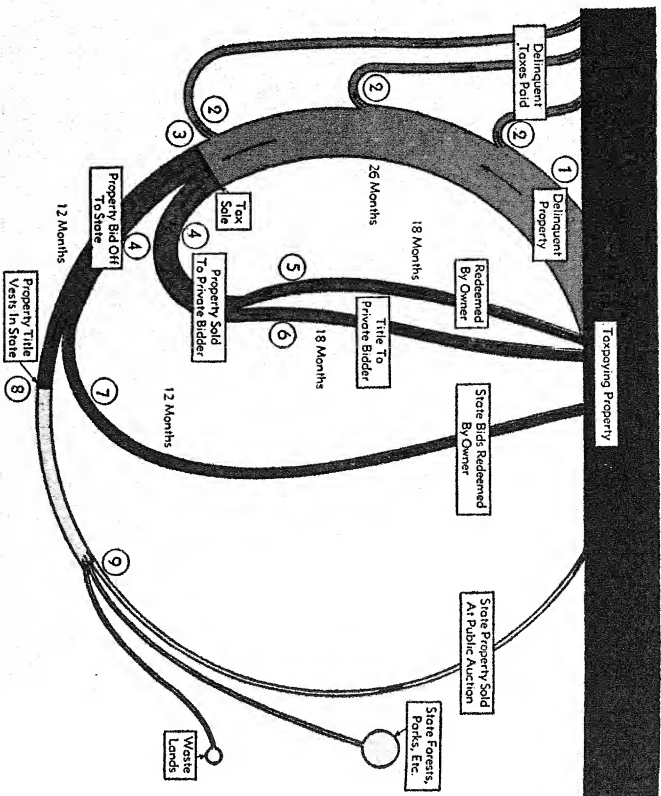
Redemption from State Bid

Starting with the tax sale of 1940 the owner of an interest in the land has the right to redeem by payment of the amount of the state bid together with interest thereon at 1 per cent per month at any time within twelve months after the tax sale. This differs from the period of redemption of lands sold to a private bidder. It has been shown that the owner may reacquire property sold to a private bidder at any time within eighteen

TAX DELINQUENCY CYCLE

PROCEDURE FOR 1940 AND SUBSEQUENT YEARS

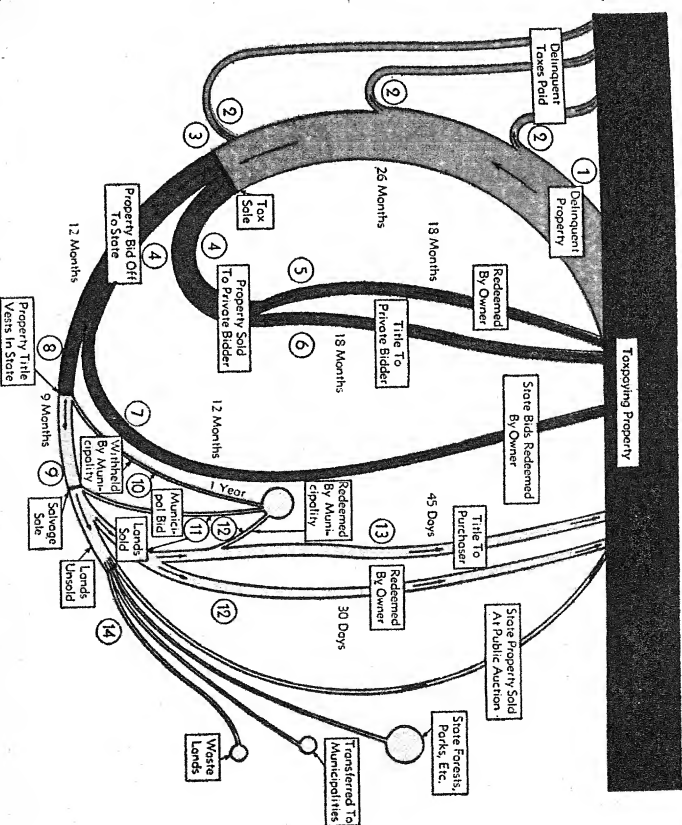
BEFORE ADOPTION OF SALVAGE SALE



LENGTH AND WIDTH OF LINES BEAR NO RELATION TO TIME OR AMOUNT OF PROPERTY INVOLVED

1. Taxes become delinquent if unpaid by March 1.
2. Delinquent taxes may be paid any time within next 26 months.
3. Tax sale held 26 months after property becomes delinquent.
4. Taxes may be sold to private bidder or bid off to state.
5. Owner may redeem at any time within 18 months after sale to private bidder.
6. If owner does not redeem, title goes to private bidder.
7. Owner may redeem state bids at any time within 12 months after tax sale.
8. If owner does not redeem, title is vested in state.
9. State lands may be sold by the Conservation Department, or may be used for state forests, parks, and game refuges. Waste lands include any lands not sold or used in state forests, parks, etc.

AFTER ADOPTION OF SALVAGE SALE



- 1-8. The procedure up to the time of vesting of title in the state is the same as under the procedure before the adoption of the salvage sale.
9. Salvage sale occurs 9 months after title vests in state.
10. Lands may be withheld from salvage sale by municipalities for one year.
11. At the salvage sale, lands may be sold to municipalities or to private individuals.
12. Lands sold to persons other than former owner may be redeemed by former owner within 30 days after sale, or by municipality within next 15 days if former owner fails to redeem.
13. If land is not redeemed, title goes to purchaser 45 days after sale.
14. Lands not sold at salvage sale may be sold at later date, or used in state forests and parks, or transferred to municipalities to be used for public purpose.

TAX AND SALVAGE SALES

months after tax sale. This eighteen-month period consists of a twelve-month redemption period and a six-month reconveyance period. Where lands have been bid off to the state, however, there is no reconveyance period, and the owner is allowed twelve months in which to redeem. Redemption of a state bid restores all of the previous liens and encumbrances against the property, including those for taxes, as is the case when property is redeemed after sale to a private bidder.

The procedure for redemption from the 1938 and 1939 tax sales is somewhat different. The owner may redeem the state bid at the 1938 tax sale, which applied to taxes unpaid for 1935 and prior years, any time within eighteen months after the sale, by payment of the amount of the state bid with interest at 1 per cent per month; provided, however, that such taxes may be redeemed between May 2, 1939, and September 30, 1939, by payment of the taxes and a collection fee of 6 per cent, but without other penalties or interest charges; also, any taxes for 1935 and prior years that were sold at the 1939 sale may be redeemed under the same provision. The owner may redeem the state bid on taxes for 1936 and prior years which were sold at the 1939 tax sale by paying the amount of the bid together with interest at 1 per cent a month, at any time within eighteen months after the sale. These measures were intended as an additional stimulus to redemption by the owner before title to the land reverts to the state.

Nonredemption

If any parcel that is bid off by the state is not redeemed, title to the property becomes absolute in the state at the end of the redemption period. The auditor general is required to deed such property to the state within thirty days after the expiration of the twelve months. In the past the auditor general has exercised considerable administrative discretion in deeding tax delinquent land to the state, with the result that many parcels remained delinquent for as long as fifteen years and were not deeded to the state. As a result of this new act, however, state bid lands will automatically revert to the state after

TAX AND SALVAGE SALES

the redemption period has expired, and deeding to the state by the auditor general is mandatory.

When property reverts to the state all previous liens and encumbrances, including those for taxes, are automatically canceled. So long as the state holds title to such land it is not subject to further assessment under the property tax. In the ordinary property tax procedure such lands are placed under the administration of the Conservation Department. The department may either reserve the land for use in conservation projects such as state forests or parks, or it may appraise the land and sell it at public auction at a price not less than the minimum appraisal. For the years 1940 through 1944 this procedure has been replaced by the salvage sale.

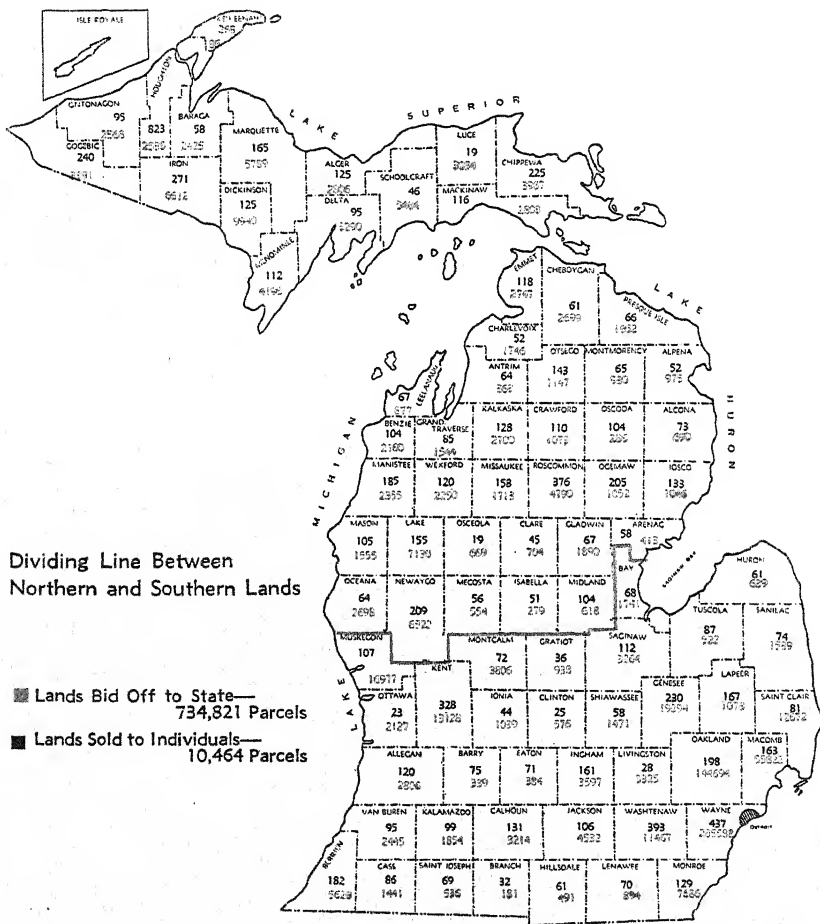
THE SALVAGE SALE

The theories underlying the tax and salvage sales are quite different. The former is an extreme penalty for nonpayment of taxes and represents the first step in divesting the delinquent taxpayer of his property. The latter is an emergency device designed to restore to private ownership lands which have reverted to the state by the tax delinquency route. The salvage sale was resorted to upon the theory that much tax delinquent land, which would ordinarily revert to the state following the restoration of the tax sale procedure, should remain in private ownership; that a large amount of delinquency had arisen due to factors beyond the control of taxpayers; and that such delinquency represented inability rather than unwillingness to pay.

SALVAGE SALE VERSUS TAX SALE

There are several points of difference between the tax and salvage sales. At the tax sale, taxes, or rather tax liens, are sold; whereas at the salvage sale the land itself is sold. The taxpayer owns the property subject to tax sale, but the state owns the property subject to salvage sale. Under the tax sale the price is fixed, and bidding centers around the smallest undivided interest in the land which will be accepted by the

PRIVATE PURCHASES AND STATE BIDS TAX SALE OF 1938*



*Estimated by Auditor General
as of January 1, 1939

TAX AND SALVAGE SALES

purchaser of the tax certificate; under the salvage sale the entire interest in the property will be sold to the highest bidder. Other points of difference between the two sales will appear with a more detailed consideration of the salvage sale.

ADMINISTRATION OF THE SALVAGE SALE

For purposes of administration of the lands subject to salvage sale the state has been divided into two sections, with the dividing line drawn along the southern boundaries of Oceana, Newaygo, Mecosta, Isabella, Midland, and Arenac counties. These two sections are shown in the map of Michigan at page 16. In the discussion that follows, lands north of this line will be referred to as northern lands, and the lands south of the line as southern. The northern lands which are subject to the provisions of the salvage sale act will be under the jurisdiction of the Conservation Department, but the sale of southern lands will be administered by the newly created State Land Office Board. This board consists of the auditor general, as chairman, and two other members appointed by the governor. Of the 735,000 parcels that were bid off to the state at the 1938 tax sale, 117,000 were northern lands and 618,000 were southern lands.

LANDS SUBJECT TO SALVAGE SALE

All lands that were bid off to the state at the 1938 and 1939 tax sales will revert to the state at the end of eighteen months, that is, in November, 1939 and 1940, respectively. They will be subject to salvage sale in the following February.

It has been shown that after the tax sale of 1940, state-bid lands will revert to the state at the end of twelve months. Such lands will be subject to salvage sale in the following February. This changes the interval between date of reversion and the salvage sale from three months to nine months.

All lands, the title to which is vested in the state by virtue of any tax sale after July 3, 1937, will be subject to the salvage sale with but two exceptions. The first exception arises from a

TAX AND SALVAGE SALES

provision of the law permitting any municipality—that is, any county, city, village, township, or school district—to apply to the State Land Office Board to have state lands within its jurisdiction withheld from the salvage sale for one year. The lands that are withheld from sale in this manner are subject to the lien of the municipality for delinquent taxes or special assessments. If these are not redeemed or paid by the municipality, such lands are to be offered at the next salvage sale.

The second exception relates to certain lands administered by the Conservation Department. Although all southern tax-reverted lands will be sold at the salvage sale, northern lands will not be sold unless the owner shall have made application for such sale within thirty days after the vesting of title in the state. Where such application is made the lands are to be sold at public auction at a price not less than 25 per cent of the last assessed valuation of the property. This minimum sales price also applies to land sold by the State Land Office Board.

In order to understand the reason for the difference in treatment of northern and southern lands it is necessary to examine briefly the legislative history of the salvage sale. As the law was first passed in 1937 no northern lands were to be subject to the sale. This provision was in the law chiefly because the Conservation Department contended that most of the land in northern counties was cut-over, submarginal land, and was best suited for conservation projects. At the 1939 session of the legislature an effort was made to place all lands under the jurisdiction of the State Land Office Board mainly because there was a feeling that the people in northern counties should have the privilege of reacquiring their land at the same terms that were being extended to people in the southern counties. Apparently, this effort was opposed for several reasons. First, the contention of the Conservation Department was advanced—that the lands were submarginal; second, it was feared apparently that timber lands, potential or actual, would be purchased at the sale, held until the timber had been cut, and then allowed to go delinquent again. The present provision was presumably intended as a compromise to these conflicting opinions, and it

TAX AND SALVAGE SALES

appears to be a satisfactory compromise. Thus, under the existing provisions no land in northern counties will be sold at the salvage sale unless the owner of the land at time of tax sale makes application to have it sold. This provision makes it possible for the owners of land in all parts of the state to purchase their land by the salvage sale process, and yet it does not throw all tax reverted lands in northern counties on the auction block unless the owners so petition.

SALES PRICE

Reference has been made to the fact that tax reverted lands are to be sold to the highest bidder at the salvage sale, but in no case is the price to be less than 25 per cent of the last assessed valuation preceding the vesting of title to the property in the state. Although some criticism may be directed at the use of a mechanical rule of this sort for setting the minimum price, there are several considerations that may be suggested in support of such a method. In the first place, the sale is a public sale to the highest bidder, and the selling price should tend to equal the fair market value of the property. Second, a fresh start is made possible for the property owner who has accumulated during the depression a burden of taxes, interest, and penalties that may even exceed the assessed or actual value of the property. Third, from a legal standpoint, such a procedure is not objectionable under the uniformity clause of the state constitution, although outright cancellation of the taxes would be. The courts in several cases have upheld the right of the state to sell property deeded to it by virtue of a tax sale where a reasonable minimum price is provided.

If the highest bidder at the salvage sale owned the property at the time of tax sale he must, within twenty-four hours after the sale of the parcel, either pay the bid in cash or make arrangements to pay the bid in installments over a period of not more than ten years. If the highest bidder did not own the property he apparently does not have the option of making installment payments, but must pay the full bid in cash. If the

TAX AND SALVAGE SALES

salvage sale bid is not paid within twenty-four hours the sale is canceled, and the property may be reoffered for sale.

The proceeds of all sales made under the provisions of this act are to be paid to the different taxing units in proportion to their tax equities in the various parcels.

LANDS SOLD AT THE SALVAGE SALE

Who May Bid at the Sale

Generally speaking, anyone may bid for land at the salvage sale including the owner of the property at the time of the tax sale. It will be recalled that the owner is not permitted to bid at the tax sale. The difference between the tax and salvage sales in this respect arises because title to the property has passed to the state by the time of the salvage sale. When the property passes into state ownership, the state is free to do with the property whatever it pleases, and the rights or disabilities of the original owner of the property are only those which the state sees fit to grant to, or impose upon, him.

Any municipality having a tax lien on property at the time the title reverts to the state may also bid at the salvage sale. The municipalities may bid for property, however, only if they intend to use it for some public purpose; they may not purchase property at the salvage sale for resale. If property purchased by a municipality at the salvage sale is dedicated to a public use for less than ten years, such property will revert to the state when its public use is discontinued. Where a municipality is the highest bidder for property it is required to pay in cash only the expenses of sale plus the proportionate part of taxes and assessments of other units canceled when the land reverted to the state. The proportion is determined by the ratio between the amount of the bid and the amount of taxes canceled.

Rights of Owner

If land is sold at the salvage sale to anyone who was not the owner of the property at the time of tax sale, the owner of any interest in the land has the right for a period of thirty days

TAX AND SALVAGE SALES

after the sale to meet the highest bid. Thus, for mortgaged property either the mortgagor or the mortgagee may meet the highest bid. Where several owners of interests in the property wish to redeem, priority will be given to the one having the largest financial investment in the property.

The bid may be met either by paying the full amount, without any interest or penalties, or by arranging to make the payment in installments over a period not exceeding ten years with interest on the unpaid installments at 6 per cent per annum. If, during the installment period, the owner fails to meet any installment or to pay the current taxes and assessments before they become delinquent, he loses all rights to the property. At the time that the cash payment is made, or the installments are completed, the owner receives a quit claim deed to the property which conveys title free and clear of all previous liens and encumbrances.

Rights of Municipalities

If the owner of the property does not meet the highest bid, a municipality may do so provided that the taxes due it were unpaid at the time the land reverted to the state. The municipality has fifteen days after the owner's redemption period has expired in which to meet the bid, although it may do so only in the case of property which it intends to dedicate to some public use. Northern municipalities apparently do not have this right to meet the highest bid and claim the land.

Rights of the Highest Bidder

The highest bidder at the salvage sale receives title to the property if the bid is not met by the owner or by a municipality. The highest bidder for northern lands, if he was a former owner of the property, receives a title free and clear of all liens and encumbrances; if he was not a former owner the title reserves coal, oil, gas, and other mineral rights in the land to the state. This conforms to the present practice of reserving mineral rights in all state lands that are sold at public auction by the Conservation Department. The highest bidder for southern

TAX AND SALVAGE SALES

lands, whether or not he was a former owner, receives a title free and clear of all liens and encumbrances, except for certain rights owned by public utilities whose tangible personal property passes over or through the land sold and is assessed separately from the real estate.

UNSOLD LANDS

Lands will be offered at only one of the five salvage sales authorized under the present law. If they are not sold when offered at the first sale the lands are not to be offered at any subsequent salvage sales.

The State Land Office Board is directed to appraise all lands under its jurisdiction which are not sold and to set a minimum value therefor. It is empowered to sell such lands, at a price not less than the appraised value, on either cash or installment payment plans. The board may also transfer to any municipality any of such lands on which the taxes of the municipality were not paid. The property must then be used by the municipality for public purposes. Such property is to be transferred to the municipality, and a quit claim deed given therefor, without any payment by the municipality. Where a request for such transfer comes from two or more municipalities they are to be given priority according to the amount of their respective tax interests at the time the property reverted to the state, and the municipality with the largest tax equity will, presumably, get the land. The board is also authorized to provide for the use of any unsold lands by the state or by any political subdivision thereof as the interests of the state may require. Any lands not otherwise disposed of are to be transferred to the Conservation Department within thirty days after the expiration of the salvage sale act in May, 1944. When transferred to the Conservation Department all lands may be either appraised and sold or reserved for use in state forests, parks, and game refuges.

Of the lands administered by the Conservation Department all those not sold at salvage will be administered in accordance with existing laws. These provide that the Conservation De-

TAX AND SALVAGE SALES

partment shall appraise the land, and that in future sales of the land the appraised value shall be the minimum sales price. The director of conservation may, with the approval of the Conservation Commission, withhold any lands from sale if he determines that they are suitable for state forests, parks, or game refuges.

Although most of the provisions of the salvage sale act become inoperative after May 1, 1944, the law provides for use of the salvage sale process by the Conservation Department following future tax sales. This will be accomplished by a continuation of the present section of the law which provides that within thirty days after the title to any land passes to the state by virtue of any tax sale, the owner of such land at the time of the tax sale may make application to the Conservation Department for the sale of the land at public auction at a price not less than 25 per cent of the last assessed valuation. The administration of all tax-reverted lands, in both the northern and southern parts of the state, will be under the Conservation Department after 1944.

RATIONALE OF THE SALVAGE SALE

When the time comes to evaluate the results of the salvage sale it should be remembered that the sale was not expected to remedy the causes—administrative, legislative, or economic—of tax delinquency, but rather to provide relief to taxpayers and the local units from the delinquency accumulated during the depression of the nineteen-thirties. In other words, it is merely an effort to deal with the present problem that arose out of the large volume of unpaid taxes for former years.

The effectiveness of the salvage sale in relieving the burden of present tax delinquency cannot be determined until after the sale is held. It must then be judged according to at least four criteria. First, to what extent did the sale make possible redemption of property by the owner? Second, how much revenue did the local units receive from the sale, and what proportion did it constitute of the accumulated delinquent taxes?

TAX AND SALVAGE SALES

Third, did the sale succeed in restoring a substantial amount of tax delinquent property to the local tax rolls? Fourth, did the sale facilitate the most desirable utilization of tax delinquent property in the state?

The salvage sale is an unusual device designed to deal with an unusual situation in regard to tax delinquency. The tax burden on property has been heavy. Many distressed owners of property, on which taxes were delinquent, were subject to assessed valuations that were inflated by virtue of the real estate boom of the nineteen-twenties. The combined burden of the general property tax and special assessments showed little adjustment to the decline in income. It was inevitable that much property should become delinquent. The salvage sale represents an effort to restore delinquent property to private ownership and to the tax rolls.

*See
Shelton*

64-5788

192.64

